

June 20, 2003

Via Overnight Mail

Mary L. Cottrell
Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

**Re: D.T. E. 03-45 – Comments of Richmond Telephone Company
("Richmond").**

Dear Secretary Cottrell:

Enclosed please find an original and nine (9) copies of the Comments of Richmond Telephone Company ("Richmond"). These comments are filed in compliance with D.T.E. 03-45, *Hearing Officer Notice Soliciting Comments on Whether the Department Should Open an Investigation to Establish an Instate Universal Service Fund*.

Should you have any questions, please feel free to contact me at any time. I can be reached at (610) 928-3904.

Sincerely,

A handwritten signature in black ink, reading "Gary M. Zingaretti". The signature is written in a cursive, flowing style.

Gary Zingaretti
Senior Vice President – ICORE Inc.

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Tina.Chin@state.ma.us

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Notice Soliciting Comments on)	
Whether the Department)	
Should Open an Investigation to)	D.T.E. 03-45
Establish an Instate)	
Universal Service Fund)	

Comments of Richmond Telephone Company

JUNE 20, 2003

I. INTRODUCTION

These comments are submitted on behalf of Richmond Telephone Company in response to the Department of Telecommunications and Energy's ("Department" or "DTE") May 29, 2003 solicitation of comments on whether the Department should open an investigation to establish an instate universal service fund. Specifically, the Department requests comment regarding (1) whether the Department has sufficient statutory authority under existing federal and state statutes to establish a USF for the Commonwealth; and, if so, (2) whether the Department should initiate an investigation into the establishment of a USF for the Commonwealth.

Richmond Telephone Company is an incumbent local exchange carrier operating serving approximately 1,200 access lines in Berkshire County in Western Massachusetts.

Richmond is a rural telephone company as defined by the Telecommunications Act of 1996.¹

II. THE DTE HAS SUFFICIENT STATUTORY AUTHORITY TO ESTABLISH AN IN-STATE USF.

A. THE FCC HAS PROVIDED ALL STATES WITH THE OPPORTUNITY TO ESTABLISH AN IN-STATE USF.

¹ 47 U.S.C. § 153 (37).

It is clear under existing Federal Statutes that Massachusetts, or any other state, has the authority to implement an in-state USF. A State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service.²

B. THE LACK OF EXPLICIT STATE STATUTES SHOULD NOT PROCLUDE THE D.T.E. FROM UNDERTAKING THIS INITIATIVE.

The lack of explicit state statutes should not prohibit Massachusetts from undertaking this important initiative. The federal statutes clearly give Massachusetts the opportunity to advance an in-state USF. A formal D.T.E proceeding would provide the venue for all interested companies to offer plans and testimony in support of an in-state USF. At the conclusion of these proceedings, it would be clear how the fund is designed to work. The contributors, recipients, assessment amount and methodology would all be known. At that point, appropriate rules and regulations can be adopted to formalize the in-state USF. It should be noted that this path could be similar to what was implemented in Pennsylvania³.

C. THE D.T.E. HAS THE BROAD AUTHORITY OVER COMMON CARRIER RATES.

The D.T.E.'s jurisdiction for regulation of intrastate telecommunications common carriers is provided under G.L. c. 159. The D.T.E. has broad general supervisory

² 47 U.S.C. § 254 (f).

³ PA PUC Docket Nos. P-00991648 and P-00991649, Order entered September 30, 1999.

power over the provision of telecommunications services⁴. Sections 14 and 20 of G.L. c. 159 give the D.T.E. authority over the rates of common carriers subject to the D.T.E.'s jurisdiction. The introduction of an in-state USF can be viewed as an extension of existing rates.

III. THE DTE SHOULD INITIATE AN INVESTIGATION INTO THE ESTABLISHMENT OF A USF FOR THE COMMONWEALTH.

A. FEDERAL CHANGES HAVE ADDRESSED INTERSTATE RATEMAKING; MASSACHUSETTS SHOULD ADDRESS INTRASTATE RATES.

When the AT&T divestiture occurred, interstate access charges were introduced. These access rates provided continued support for LECs, similar to that achieved through pre-divestiture settlements. Interstate access charges were nearly immediately under pressure to be reduced in order to create meaningful competition in the long distance market and ultimately lower toll rates for end users. The first reductions in access rates were shifted into the Federal Subscriber Line Charge ("SLC") which is assessed on a flat rate to all ILEC lines. The SLC rates were capped, and many high cost LECs were unable to recover their network costs and still maintain affordable local service rates. This led to the introduction of new forms of support.

⁴ G.L. c. 159 §12.

In the mid-1980's, the FCC introduced High-Cost Loop ("HCL"), DEM Weighting ("DEM"), and Long Term Support ("LTS"). The HCL support was referred to as the Universal Service Fund. The other support funds were still funded by a portion of access charges. When the Telecommunications Act of 1996 ("the Act") was passed, the support that was implicit in access charges was required to be shifted to explicit funds. At this time, the DEM Weighting and LTS funds were consolidated with the HCL fund to create the new federal USF support program. Further access reductions were implemented as a result of the MAG Order⁵, thereby continuing to lower interstate access charges and increase the size of the federal USF program.

Despite the continued reductions in interstate rates, intrastate rates have remained largely the same for rural LECs. Local service rates have continued to be supported by the intrastate access rates. This support remains implicit, while the FCC has taken steps to create and expand explicit funds. Implicit support is dangerous when technological and competitive threats exist.

The cannibalization of this access (and the support inherent therein) by wireless providers was not envisioned when these rates were developed. As these minutes leave the LEC network, the support to local service leaves as well. This creates pressure on local service rates. Since LECs often receive a disproportionate share of their operating revenue from access charges, it is important that access reform occur

⁵ FCC Second Report and Order at CC Docket Nos. 01-304, 00-256 (MAG Plan), 96-45 (USF), 98-77 (Access Charge Reform) and 98-166 (Authorized Rate of Return), issued November 8, 2001.

on a revenue neutral basis. The creation of an in-state USF would help mitigate pressure on local service rates.

B. AN IN-STATE USF WOULD ALLOW SMALL RURAL LECS TO REDUCE ACCESS RATES WHILE ENSURING LOCAL RATES REMAIN JUST, REASONABLE, AND AFFORDABLE.

Absent an in-state USF, small rural ILECs could turn to rate rebalancing to address access reform. Rate rebalancing refers to the process of reducing an over-priced service such as access charges and increasing an under-priced service like basic local service. While this process offers an opportunity to migrate access rates closer to the cost of providing the service, it results in increasing local service rates. An in-state USF would provide another source for ILECs to recover lost revenue while still maintaining affordable local service rates.

C. ACCESS REDUCTIONS WOULD ELIMINATE THE ABILITY OF PURCHASERS OF ACCESS TO “TARIFF SHOP”.

The ability of a small rural LEC to move intrastate access charges closer to the interstate rates is critical. Since there is no functional difference between access provided on an interstate or interstate basis, any pricing differential that may exist will give an incentive to interexchange carriers to report lesser usage in the higher cost venue. It is important to note that the ILECs often rely on the IXC to identify

the volume of terminating interstate and intrastate traffic. In order to avoid tariff arbitrage, it is extremely important that intrastate access charges are at or near the interstate rates.

IV. CONCLUSION

For the foregoing reasons, Richmond Telephone Company respectfully submits these comments in support of the initiation of an investigation into the establishment of an in-state USF.

Respectfully Yours

ICORE, Inc.

A handwritten signature in black ink, reading "Gary M. Zingaretti". The signature is written in a cursive style with a large, stylized "G" and "Z".

By: _____

Gary M. Zingaretti
On behalf of Richmond Telephone Company